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As of: September 4, 2008 (10:51am)

LC0307

**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act providing for the diversion of adult mentally ill persons from the justice system; providing a statutory framework for state funding for county-supported jail diversion and crisis intervention programs; allowing for a respondent in an involuntary commitment case to be voluntarily diverted to short-term inpatient treatment; providing appropriations; amending section 53-21-123, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Purpose.** The purposes of [sections 1 through 8] are to:

(1) provide a statutory framework for shared county and state funding for jail diversion and crisis intervention services for person suffering from a mental illness; and

(2) establish provisions allowing respondents in involuntary commitment cases to be voluntarily diverted to short-term inpatient treatment.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Commitment" has the meaning provided in 53-21-102.

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- (2) "Court" has the meaning provided in 53-21-102.
- (3) "Department" has the meaning provided in 53-21-102.
- (4) "Emergency situation" has the meaning provided in 53-21-102.
- (5) "Mental health facility" has the meaning provided in 53-21-102.
- (6) "Professional person" has the meaning provided in 53-21-102.
- (7) "Respondent" has the meaning provided in 53-21-102.
- (8) "Short-term inpatient treatment" means inpatient treatment provided in a mental health facility pursuant to [sections 1 through 8].
- (9) "State hospital" has the meaning provided in 53-21-102.

NEW SECTION. **Section 3. State matching funds for county-supported jail diversion and crisis intervention services.** (1) As soon as possible after July 1 of each year, the department shall grant to each eligible county matching funds for approved county expenditures made in the previous fiscal year to support jail diversion and crisis intervention services pursuant to 53-21-138 and 53-21-139. The amount paid must be a percentage of the county's expenditures approved by the department prorated according to the total amount appropriated for the purposes of this section.

(2) To be eligible for the matching funds, the county, in the time and manner prescribed by the department, shall:

- (a) apply for the funds;

- (b) develop and submit to the department a county jail diversion and crisis intervention services strategic plan; and
- (c) collect and report data and information on county-supported jail diversion and crisis intervention services.

NEW SECTION. Section 4. State to contract for dedicated crisis intervention and short-term inpatient treatment beds. (1)

For each service area, as defined in 53-21-1001, the department shall contract with a mental health facility for:

- (a) at least three beds dedicated to emergency detention under 53-21-129 or court-ordered detention under 53-21-124 pending a commitment hearing; and

- (b) at least three beds dedicated to short-term inpatient treatment.

(2) Each contract shall provide that costs must be billed as provided in 53-21-132, except as follows:

- (a) the cost associated with under-utilized dedicated emergency detention beds shall be paid by the department; and

- (b) the cost for diversion to short-term intensive treatment shall be paid as provided in [section 8].

(3) The contract shall require the collection and reporting of fiscal and program data in the time and manner prescribed by the department.

NEW SECTION. Section 5. State contribution to county insurance pool. If a self-insurance plan is established by one or more counties, as authorized under 2-9-211, to help pay for

county precommitment costs under 53-21-132, the department shall contribute 50% of each county's premium.

NEW SECTION. **Section 6. Voluntary diversion to short-term inpatient treatment.** (1) The court shall suspend the commitment hearing scheduled pursuant to 53-21-122 if:

(a) a professional person has recommended in an evaluation pursuant to 53-21-123 that the respondent be diverted to short-term inpatient treatment; and

(b) the county attorney does not object and the respondent's attorney agrees to the voluntary diversion before the commitment hearing is held.

(2) If the county attorney objects or the respondent's attorney does not agree to the voluntary diversion, the commitment hearing must be held as scheduled.

(3) When a commitment hearing has been suspended pursuant to this section, the court shall refer the respondent to the mental health facility on contract with the department pursuant to [section 4]. If the mental health facility does not have an available bed, the respondent must be transported, at the department's expense, to the state hospital for short-term inpatient treatment.

NEW SECTION. **Section 7. Length of treatment -- rights.** (1) Short-term inpatient treatment pursuant to [sections 1 through 8] must be provided in a mental health facility in a manner that ensures the safety of respondent, other patients, the respondent,

and the general public. Short-term inpatient treatment may be provided in a nonsecure mental health facility if appropriate action can be taken, if necessary, to involuntarily detain the respondent and move the respondent to a secure mental health facility.

(2) Short-term inpatient treatment may not exceed 14 days, except as provided in this section. At the end of this treatment period, the respondent must be released and the petition for commitment must be dismissed.

(3) If any of the following events occur, the mental health facility shall notify the court and the court shall schedule a commitment hearing within 5 days of the notification, including weekends and holidays, unless the fifth day falls on a weekend or holiday and unless additional time is requested on behalf of the respondent:

(a) the treatment provider determines that the respondent should not be released at the end of the treatment period because an emergency situation would exist if the person is released; or

(b) the respondent requests release before completing the treatment period specified in [section 7].

(3) If the treatment provider determines that the respondent is stable and may be safely released from short-term inpatient treatment before completing the treatment period provided for in this section, the respondent must be released and the commitment petition must be dismissed.

(4) A respondent in a mental health facility for short-term inpatient treatment is entitled to all of the rights and

protections provided in part 1 of this chapter.

NEW SECTION. **Section 8. Payment of costs.** The cost for short-term inpatient treatment must be billed to the following entities in the listed order of priority:

(1) the respondent, the parent or guardian of a respondent who is a minor, or the respondent's private insurance carrier, if any;

(2) a public assistance program, such as medicaid, for a qualifying respondent; or

(3) the department.

Section 9. Section 53-21-123, MCA, is amended to read:

"53-21-123. Examination of respondent following initial hearing -- recommendation of professional person. (1) Following the initial hearing, whether before a judge or justice of the peace, the respondent must be examined by the professional person without unreasonable delay. The examination may not exceed a period of 4 hours. The professional person shall immediately notify the county attorney of the findings in person or by phone and shall make a written report of the examination to the court, with copies to the respondent's attorney and the county attorney.

(2) (a) The professional person shall include in the report a recommendation about whether the respondent should be diverted to short-term inpatient treatment as defined in [section 2].

(b) If the professional person recommends commitment, the professional person's written report must contain a statement of

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the professional person's recommendations to the court for disposition under 53-21-127.

~~(2)~~(3) The following action must be taken based on the professional person's findings:

(a) If the professional person recommends dismissal, the professional person shall additionally notify counsel and the respondent must be released and the petition dismissed. However, the county attorney may, upon good cause shown, request the court to order an additional, but no more than one, examination by a different professional person for a period of no more than 4 hours.

(b) If the professional person recommends diversion to short-term inpatient treatment as defined in [section 2], the provisions of [section 6] apply.

(c) If the court finds that commitment proceedings should continue, the hearing must be held as scheduled.

~~(3)~~(4) The court may not order further evaluation pending the hearing unless sound medical reasons require additional time for a complete evaluation. The reasons must be set forth in the order, along with the amount of additional time needed."

{Internal References to 53-21-123:
53-21-114* 53-21-129* 53-21-132}

[Staff Note: There will likely need to be additional amendments to current statutes to appropriately coordinate them with the new sections in this bill. However, time constraints prohibited staff from further work.]

NEW SECTION. **Section 10. Appropriation.** There is appropriated from the general fund to the department of public health and human services for the biennium ending June 30, 2011, the following:

- (1) For the purposes of [section 3]: \$
- (2) For the purposes of [section 4]: \$
- (3) For the purposes of [section 8]: \$

NEW SECTION. **Section 11. {standard} Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 through 8].

NEW SECTION. **Section 12. {standard} Effective date.** [This act] is effective July 1, 2009.

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